



**US Army Corps
of Engineers**
Fort Worth District

Public Notice

Number: CESWF-09-RGP-8

Activity: Boat Ramps and Minor Facilities

Date: August 26, 2009

The purpose of this public notice is to inform you of the issuance of Regional General Permit CESWF-09-RGP-8 on August 26, 2009. The permit will expire on August 26, 2014, unless it is previously revoked, modified, or extended.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

Congress directed the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

U.S. Army Engineer District
Regulatory Branch
PO Box 17300
Fort Worth, TX 76102-0300
(817) 886-1731

U.S. Army Engineer District
Albuquerque Regulatory Office
4101 Jefferson Plaza NE
Albuquerque, NM 87109
(505)342-3283

PROPOSED REGIONAL GENERAL PERMIT

BOAT RAMPS AND MINOR FACILITIES

Interested parties are hereby notified that, in accordance with 33 CFR 322.2(f), 323.2(h), and 325.2(e)(2) published in the Federal Register November 13, 1986, the Fort Worth and Albuquerque Districts of the U. S. Army Corps of Engineers (USACE) are issuing this regional general permit to authorize work described herein pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

The purpose of this Regional General Permit (RGP) is to expedite authorization of recurring work that would have minimal adverse impact on the aquatic environment. This RGP contains provisions intended to protect the environment, including natural and cultural resources. Work that does not comply with these provisions may require an individual permit. However, compliance with the conditions contained in this RGP does not guarantee authorization of the work under this RGP. Work or structures that would have unacceptable impacts on the public interest are not authorized. Activities requiring Department of the Army authorization that are not specifically covered by this permit are prohibited unless authorized by a separate permit.

The proposed RGP has been designated CESWF-09-RGP-8 in the Fort Worth District and SPA-2009-00240-ABQ in the Albuquerque District. This RGP replaces RGP SWF-02-RGP-8 in the Fort Worth District and 2001 00594 in the Albuquerque District for Boat Ramps and Minor Facilities.

SCOPE OF WORK

Work authorized by this regional general permit is limited to the discharge of dredged or fill material into waters of the United States, including wetlands, and the placement of structures and performance of work in navigable waters of the United States, associated with the construction and maintenance of boat ramps and minor facilities as described below. Maintenance is defined as:

1. the repair, rehabilitation, or replacement of any previously authorized, currently serviceable structure or fill authorized by 33 CFR 330.3, provided the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make repair, rehabilitation, or replacement, are allowed provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement changes are minimal. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction. This RGP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire, or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit

may be waived by the USACE, provided the permittee can demonstrate funding, contract, or similar delays; or

2. the removal of accumulated sediments and debris in the vicinity of, and within, existing structures (e.g., boat ramps, boat slips, boat docks, bridges, culverted road crossings, etc.) and the placement of new rip rap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. All excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the USACE. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the USACE.

Activities that may be authorized by this RGP include the following:

1. **Boat Ramps:** Work authorized for boat ramps by this permit is limited to the construction and maintenance of hard surfaced inclined plane ramps for the purpose of launching boats for public, private, and commercial use. No more than a total of 500 cubic yards of material may be dredged or filled below the ordinary high water mark in the construction of a boat ramp. Such material is restricted to native soils obtained at the work site and concrete, sand, gravel, rock, or other coarse aggregate and must be free of contaminants. Use of asphalt below the ordinary high water mark is not authorized. All dredged and fill material utilized shall be of suitable quality and free of toxic pollutants in toxic quantities.

2. **Minor Facilities:** Work authorized for minor facilities by this RGP is limited to the construction and maintenance of minor facilities such as boat docks, boathouses, fishing piers, walkways, boat stalls, boat slips, ski jumps, underwater fish attractors, and appurtenant structures such as shoreline walls, mooring devices, and stairways within 50 feet of either side of the facility, for public, private, and commercial use. Structures built in waterways shall not unreasonably interfere with navigation or disrupt visibility in a channel.

a. Boat docks, boathouses, fishing piers, and walkways are limited to pile-supported or floating structures.

b. Boat slips or stalls may not exceed 50 feet in width. Any excavation or filling for boat slips must be adequately stabilized to prevent erosion. Any excavation for boat slips may not extend waterward beyond 30 feet from the end of the structure.

c. Ski jumps must be maintained in good condition and marked so as to be clearly visible to boat traffic, including reflective markers for night visibility. Navigable clearance must be maintained around the jump. Ski jumps must be constructed and anchored to prevent their dislocation or submergence by wave action or water level fluctuations.

d. No more than a total of 50 cubic yards of material may be dredged from waters of the United States in the construction or maintenance of minor facilities or appurtenant structures.

e. No more than a total of 50 cubic yards of dredged or fill material, exclusive of that associated with dredging, may be discharged below the ordinary high water mark during the construction of minor facilities or appurtenant structures including all permanent and temporary fills. The fill material that may be used is restricted to native soils obtained at the work site, concrete, sand, gravel, rock, or other coarse aggregate. All dredged or fill material utilized must be free of waste metal products, organic materials, unsightly debris, etc., and toxic pollutants in toxic quantities.

f. Underwater fish attractors may be placed when and where needed to provide more favorable habitat for diverse fish populations provided this is the sole purpose for the discharge. All placement sites on reservoirs or lakes must be coordinated with the administrative agency of the water body and the exact location of the site recorded. Materials authorized for the construction of fish attractors include any large coarse material at least two inches in diameter that will not degrade water quality. These materials include but are not limited to wood, automobile tires, pipe (clay, concrete, or plastic only), broken concrete (protruding r-bar removed), brick, rock, rip rap, gravel, brush, or hay bales. Sufficient ballast or anchorage must be used to prevent material from floating and becoming a boating hazard. All material discharged into the water must be free of toxic pollutants in toxic quantities. The discharge of material must be limited to an area of ½ acre at any one location within the water body. All structures must provide a minimum five foot clearance below the normal low water surface to preclude interference with navigation.

This RGP does not authorize the storage and staging areas for constructing authorized structures within waters of the United States or activities that would have substantial adverse impacts on the aquatic environment or cause a substantial reduction in the reach of waters of the United States.

The activities listed above are authorized by this RGP provided they meet all of the following criteria:

1. The discharges and work shall not cause the loss of greater than one (1) acre of waters of the United States for each single and complete project. "Loss of waters of the United States" is defined as "waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity."
2. Adverse impacts to waters of the United States, including wetlands, shall be avoided and minimized to the extent practicable through the use of practicable alternatives that have less adverse impact on the aquatic environment. Projects shall be designed to pass low flows and expected high flows, to not interfere with the migration of aquatic organisms, avoid the creation of impoundments, and maintain the preconstruction upstream and downstream flow conditions to the extent practicable.
3. All fills and structures above the existing ground elevation in waters of the United States shall minimize adverse impacts to local hydrology. Projects shall not promote the drainage of waters of the United States or cause unnecessary impoundment of water.

4. All soil-disturbing activities shall be conducted in a manner that will minimize the extent and duration of exposure of unprotected soils. Appropriate erosion and siltation controls shall be used and maintained in effective operating condition during and after construction until all exposed soil is permanently stabilized. Measures to control erosion and run-off, such as berms, silt screens, sedimentation basins, revegetation, mulching, and similar means, shall be implemented. All damage resulting from erosion and/or sedimentation shall be repaired.

5. Compensatory mitigation shall be provided for unavoidable adverse impacts to waters of the United States, including wetlands, when appropriate and practicable.

6. Preconstruction Notification: Prior to construction, a prospective permittee must notify the USACE of the proposed work in accordance with the requirements of the "Preconstruction Notifications" section below if the discharge or work would:

a. cause the loss of greater than 1/10 acre of waters of the United States;

b. result in permanent or temporary adverse effects to forested wetlands;

c. occur within any of the following habitat types:

1) wetlands, typically referred to as pitcher plant bogs, that are characterized by an organic surface soil layer and include vegetation such as pitcher plants (Sarracenia sp.), sundews (Drosera sp.), and sphagnum moss (Sphagnum sp.); or

2) baldcypress-tupelo swamps: wetlands comprised predominantly of baldcypress trees (Taxodium distichum), and water tupelo trees (Nyssa aquatica), that are occasionally or regularly flooded by fresh water. Common associates include red maple (Acer rubrum), swamp privet (Forestiera acuminata), green ash (Fraxinus pennsylvanica) and water elm (Planera aquatica). Associated herbaceous species include lizard's tail (Saururus cernuus), water mermaid weed (Proserpinaca spp.), buttonbush (Cephalanthus occidentalis) and smartweed (Polygonum spp.). (Eyre, F. H. Forest Cover Types of the United States and Canada. 1980. Society of American Foresters, 5400 Grosvenor Lane, Washington, D.C. 20014. Library of Congress Catalog Card No. 80-54185);

d. occur within:

1) the area of Caddo Lake within Texas that is designated as a "Wetland of International Importance" under the Ramsar Convention; or

2) the Comal River, the San Marcos River, the Pecos River, Lake Casa Blanca or within areas identified as critical habitat for the Concho water snake (Nerodia hateri paucimaculata) including areas of the Concho and Colorado Rivers and Ivie Reservoir, Houston toad (Bufo houstonensis), or the Arkansas River shiner (Notropis girardi).

or if :

e. a structure would extend into the waterway more than 1/5 of the total width of the waterway or exceed 50 feet, whichever is less, perpendicular to the bank.

7. For cases where USACE preconstruction notification (PCN) is required, permittees shall submit a written compliance report to the USACE within 120 days after completion of all work that includes the following:

a. a statement addressing whether the authorized work and mitigation required to date have been implemented in accordance with the USACE authorization, including all general and special conditions;

b. a summary of all construction and mitigation activities associated with the project that have occurred, including documentation of the completion of all work and compliance with all terms and conditions of the permit;

c. a comparison of the pre- and post-construction conditions of the project area;

d. a detailed description of all impacts that have occurred to waters of the United States;

e. a map showing the final configuration of restored, enhanced, created and preserved waters of the United States, including wetlands;

f. a presentation of the species of plants, number and acreage of vegetation planted, final topographic elevations of the project, and a map describing the location of the plantings;

g. a discussion about whether disturbed areas, such as borrow ditches, road embankments, stream banks, road crossings, and temporary impact areas are revegetating adequately and not suffering erosion damage;

h. photographs and maps as appropriate to illustrate the information presented.

The prospective permittee shall not begin any activity requiring preconstruction notification until notified in writing by the USACE that the activity is authorized under this RGP with any special conditions imposed by the USACE. The USACE will respond as promptly as practicable to all PCNs.

CONDITIONS OF THE RGP

In addition to the limitations in the scope of work, work authorized by this RGP is subject to the general conditions listed in Appendix A. References in the general conditions to “completion of construction” refer to completion of work within the permit area for the Department of the Army work in, and adjacent to, waters of the United States, including wetlands. Also, for projects requiring water quality certification, projects are subject to the conditions of the water quality certification that applies.

LOCATION OF WORK

The provisions of this regional general permit will be applicable to all waters of the United States, including all navigable waters of the United States, in the Fort Worth and Albuquerque Districts of the USACE, within the states of Texas and Louisiana (see Appendixes B and C of the Regional General Permit). The Fort Worth District includes the Sabine River watershed in Sabine, De Soto, and Caddo Parishes in the State of Louisiana.

WATER QUALITY CERTIFICATION

The Texas Commission on Environmental Quality (TCEQ) has certified pursuant to Section 401 of the CWA and Title 30, Texas Administrative Code, Chapter 279, for the activities for which it is responsible, that activities conducted under this RGP should not result in a violation of established Texas Water Quality Standards provided the standard provisions and General Condition 33 (see Appendix A) are followed (See also Appendix E).

The Railroad Commission of Texas (RRC) has granted certification pursuant to Section 401 of the CWA, for the activities associated with the exploration, development, and production, including pipeline transportation, of oil, gas, or geothermal resources that may result in a discharge to waters of the United States, that activities conducted under this RGP comply with applicable water quality laws conditional on the addition of language to the permit advising that a RRC permit may be required for any point source discharge of pollutants in those cases (see Appendix E). The required language has been added.

The Louisiana Department of Environmental Quality (LDEQ) has certified pursuant to Section 401 of the CWA and LAC 33:IX.1507.A-E that the requirements for water quality certification for the State of Louisiana have been met and that placement of fill material associated with the RGP will not violate the water quality standards of Louisiana provided for under LAC 33:IX.Chapter 11 (see Appendix E).

AUTHORIZATION FROM OTHER AGENCIES

This RGP does not obviate the need to obtain other Federal, state, or local permits, approvals, or authorizations required by law. The permittee is responsible for obtaining any additional federal, state, or local permits or approvals that may be required, including, but not limited to:

1. When streambed materials such as sand, shell, gravel and marl would be disturbed or removed from state-owned waters in Texas, the permittee may be required to obtain a permit from the Texas Parks and Wildlife Department (TPWD), 4200 Smith School Road, Austin, Texas 78744. All activities occurring on lands owned or managed by the TPWD require a signed agreement from that agency prior to commencing operations.
2. All activities in Texas located on lands under the jurisdiction of the Texas General Land Office (GLO), 1700 North Congress Avenue, Austin, Texas 78701-1495, must have prior approval from that office. The placement of structures onto state-owned streambeds, state-owned uplands, or coastal state-owned lands in Texas may require the issuance of a lease or easement from the GLO.
3. Any work that would be conducted on lands or in waters under the jurisdiction of any river authority or other operating agency may require a permit from that agency.
4. Projects involving government property at USACE reservoirs require submission of detailed design information to the reservoir manager and USACE approval for the proposed activity to occur on government property, including a real estate consent to easement.
5. Activities within a 100-year floodplain may require a floodplain development permit from the local floodplain administrator or, in Texas, the TCEQ Flood Management Unit, (512)239-4771 (see also general condition 31). In addition, evidence that the project meets non-encroachment restrictions in regulatory floodways may be required.
6. In accordance with the Federal Clean Water Act and Texas statute, a point source discharge of pollutants from an outfall structure must be authorized, conditionally authorized, or specifically exempted from regulation under the terms of the Texas Pollutant Discharge Elimination System (TPDES) program through the TCEQ, Water Quality Division (MC-150), P. O. Box 13087, Austin, Texas 78711-3087.
7. Activities such as clearing, grading, and excavation that would disturb one acre or more of land may require a National Pollutant Discharge Elimination System (NPDES) storm water management permit from the U.S. Environmental Protection Agency (EPA), Region 6, Water Quality Protection Division (6WQ), 1445 Ross Avenue, Dallas, Texas 75202 or a TPDES storm water management permit from the TCEQ, Water Quality Division (MC-150), P. O. Box 13087, Austin, Texas 78711-3087.
8. The use of scrap tires for bank stabilization and erosion control requires notification of the TCEQ Waste Tire Recycling Program, P. O. Box 13087, Austin, Texas 78711-3087.
9. Activities associated with the exploration, development, or production of oil, gas, or geothermal resources, including the transportation of oil or gas prior to the refining of such oil or the use of such gas in manufacturing or as a fuel, as described in Texas Natural Resource Code Annotated §91.101, may require authorization from the Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967, the Federal Energy Regulatory Commission, 3125

Presidential Parkway, Suite 300, Atlanta, Georgia 30340, and/or the Texas General Land Office, 1700 North Congress Avenue, Austin, Texas 78701-1495.

10. The construction, operation, maintenance, or connection of facilities at the borders of the United States are subject to Executive control and must be authorized by the President, Secretary of State, or other delegated official. Activities that would require such authorization and would affect an international water in Texas, including the Rio Grande, Amistad Reservoir, Falcon Lake, and all tributaries of the Rio Grande, may require authorization from the International Boundary and Water Commission, The Commons, Building C, Suite 310, 4171 North Mesa Street, El Paso, Texas 79902.

11. Activities outside the USACE permit area that may affect a federally listed endangered or threatened species or its critical habitat could require permits from the U.S. Fish and Wildlife Service (FWS) to prevent a violation of the Endangered Species Act under Section 9. For further information, contact the **U. S. Fish and Wildlife Service** in **Arlington**: Stadium Centre Building, 711 Stadium Drive East, Suite 252, Arlington, Texas 76011, (817)277-1100, <http://www.fws.gov/southwest/es/arlingtontexas/> ; **Austin**: 10711 Burnet Road, Suite 200, Austin, Texas 78758, (512)490-0057, <http://www.fws.gov/southwest/es/austintexas/> ; **Corpus Christi**: c/o Corpus Christi State Univ., Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512)994-9005, <http://www.fws.gov/southwest/es/CorpusChristiTexas/> ; or **Houston**: 17629 El Camino Real, Suite 211, Houston, Texas 77058, (713)286-8282, <http://www.fws.gov/southwest/es/clearlaketexas/> .

12. Activities may affect state-listed rare, threatened, or endangered species. For a rare, threatened, and endangered species review in the State of Texas, submit projects to Wildlife Habitat Assessment, Texas Parks and Wildlife Department, 3000 South IH 35, Suite 100, Austin, Texas 78704.

PRECONSTRUCTION NOTIFICATIONS

Preconstruction notifications (PCNs) requesting verification from the USACE of authorization under this RGP must include a written description of the project, proposed construction schedule, and the name, address and telephone number of a point of contact who can be reached during normal business hours. The information may be assembled and submitted in a format convenient to the applicant. The detail of the information should be commensurate with the size and environmental impact of the project. The description of the project must include at least the following information:

1. The purpose of, and need for, the project.
2. A delineation and description of wetlands and other waters of the United States in the area that would be affected by the proposed work, and a description of the project's likely impact on the aquatic environment. Delineations of wetlands must be conducted using the "Corps of Engineers Wetland Delineation Manual", USACE Waterways Experiment Station Wetlands Research Program Technical Report Y-87-1, dated January 1987 (on-line edition available at <http://el.erdc.usace.army.mil/wetlands/wlpubs.html>) (currently includes guidance dated October

7, 1991, and March 6, 1992), including all regional supplemental guidance. In addition, include the width and depth of the water body and the waterward distance of any structures from the existing shoreline.

3. A vicinity map (e.g., county map, USGS topographic map, etc.) showing the location of all temporary and permanent elements of the project, including any associated borrow pit(s), disposal site(s), staging area(s), etc. This map, or an additional map, must show the project area in relation to nearby highways and other roads, and other pertinent features. A ground survey is not required to obtain this information. (All maps and drawings must be submitted on 8½ by 11 inch sheets.)

4. Plan, profile, and cross-section views of all work (fills, excavations, structures, etc.), both permanent and temporary, in, or adjacent to, waters of the United States, including wetlands, and a description of the proposed activities and structures, such as the dimensions and/or locations of roads (both temporary and permanent), coffer dams, equipment ramps, borrow pits, disposal areas, staging areas, haul roads, and other project related areas within the USACE permit area(s). The permit area(s) includes all waters of the United States affected by activities associated with the project, as well as any additional area of non-waters of the United States in the immediate vicinity of, directly associated with, and/or affected by, activities in waters of the United States. The USACE permit area(s) includes associated borrow pits, disposal areas, staging areas, etc. in many cases. (All maps and drawings must be submitted on 8½ by 11 inch sheets.)

5. The volume of material proposed to be discharged into and/or excavated from waters of the United States and the proposed type and source of the material.

6. A written discussion of the alternatives considered and the rationale for selecting the proposed alternative as the least environmentally damaging practicable alternative. Practicable alternatives that do not involve a discharge into a special aquatic site, such as wetlands, are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise. The application must also include documentation that the amount of area impacted is the minimum necessary to accomplish the project.

7. An assessment of the adverse and beneficial effects, both permanent and temporary, of the proposed work and documentation that the work would result in no more than a minimal adverse impact on the aquatic environment.

8. A compensatory mitigation plan for unavoidable adverse impacts to the aquatic environment following the Final Compensatory Mitigation Rule (http://www.usace.army.mil/CECW/Pages/final_cmr.aspx). This plan must include a description of proposed appropriate and practicable actions that would restore, enhance, protect, and/or replace the functions and values of the aquatic ecosystem unavoidably lost in the permit area because of the proposed work (see Appendix D).

9. An assessment documenting whether any species listed as endangered or threatened under the Endangered Species Act might be affected by, or found in the vicinity of, the USACE permit area for the proposed project. Coordination with the FWS concerning the potential impact of the

entire project on endangered and threatened species is encouraged. See contact information, including website addresses, for FWS offices in Texas in “AUTHORIZATION FROM OTHER AGENCIES” section above.

10. A discussion documenting whether any cultural resources, particularly those historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP), would be affected by, or are in the vicinity of, the USACE permit area for the proposed project.

11. The applicant should include any other relevant information, including information on hydrology and hydraulics.

When a PCN is required, early coordination with the USACE, well before a final PCN is submitted, is beneficial in most cases.

Address PCNs and inquiries concerning proposed activities to the appropriate district office (see Appendix B for boundaries of district offices):

Fort Worth District: Regulatory Branch, U.S. Army Corps of Engineers, Fort Worth District, ATTN: CESWF-PER-R, P.O. Box 17300, Fort Worth, TX 76102-0300, telephone: (817)886-1731

Albuquerque District: El Paso Regulatory Office, U.S. Army Corps of Engineers, Albuquerque District, ATTN: CESP-RD-NM-EP, P.O. Box 6096, Fort Bliss, TX 79906-0096, telephone: (915) 568-0236

EVALUATION AND VERIFICATION PROCEDURES

For all discharges within the habitat types or areas listed below, the USACE will coordinate with the resource agencies as specified in the Nationwide Permit (NWP) general condition on notification (currently General Condition 27(d), Federal Register, Vol. 72, No. 47, Monday, March 12, 2007, and Vol. 72, No. 88, Tuesday, May 8, 2007). The habitat types and areas are:

1. wetlands, typically referred to as pitcher plant bogs, that are characterized by an organic surface soil layer and include vegetation such as pitcher plants (Sarracenia sp.), sundews (Drosera sp.), and sphagnum moss (Sphagnum sp.);
2. baldcypress-tupelo swamps: wetlands comprised predominantly of baldcypress trees (Taxodium distichum), and water tupelo trees (Nyssa aquatica), that are occasionally or regularly flooded by fresh water. Common associates include red maple (Acer rubrum), swamp privet (Forestiera acuminata), green ash (Fraxinus pennsylvanica) and water elm (Planera aquatica). Associated herbaceous species include lizard's tail (Saururus cernuus), water mermaid weed (Proserpinaca spp.), buttonbush (Cephalanthus occidentalis) and smartweed (Polygonum spp.). (Eyre, F. H. Forest Cover Types of the United States and Canada. 1980. Society of American Foresters, 5400 Grosvenor Lane, Washington, D.C. 20014. Library of Congress Catalog Card No. 80-54185); and

3. the area of Caddo Lake within Texas that is designated as a “Wetland of International Importance” under the Ramsar Convention.

For activities adversely affecting greater than 1/10 acre of wetlands in the State of Louisiana, the USACE will provide a copy of the PCN to the Louisiana Department of Wildlife and Fisheries, for a 10-calender day review. The review period will commence on the date that the Louisiana Department of Wildlife and Fisheries receives the PCN.

For activities not requiring a PCN, construction may commence when the applicant can ensure that all terms and conditions of this RGP can be met. For activities requiring a PCN, construction may commence only upon written notification by the District Engineer, or his designee, that the project meets the terms and conditions of the RGP. In all cases, the USACE will notify the permit applicant whether the proposed project meets or does not meet the terms and conditions of this RGP. The USACE will respond as promptly as practicable to all PCNs.

It is the permit applicant's responsibility to insure that all authorized structures and activities continue to meet the terms and conditions set forth herein; failure to abide by them will constitute a violation of the Clean Water Act and/or the Rivers and Harbors Act of 1899. Projects outside the scope of this regional general permit can be considered for authorization by individual permit.

This permit shall become effective on the date of the signature of the District Engineers, or their authorized representative(s), and will automatically expire five years from that date unless the permit is modified, revoked, or extended before that date. Activities that have commenced, i.e. are under construction, or are under contract to commence in reliance upon this permit will remain authorized provided the activity is completed within twelve months of the date of this permit's expiration, modification, or revocation, unless discretionary authority is exercised on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETATARY OF THE ARMY:
FOR THE DISTRICT ENGINEERS:

Richard J. Muraski, Jr.
Colonel, Corps of Engineers
District Engineer
Fort Worth District

Kimberly M. Collton
Lieutenant Colonel, Corps of Engineers
District Engineer
Albuquerque District

APPENDIX A

GENERAL CONDITIONS

REGIONAL GENERAL PERMIT CESWF-09-RGP-8

1. In verifying authorization under this regional general permit (RGP), the Department of the Army has relied in part on the information provided by the permittee. If, subsequent to verifying authorization, such information proves to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part.
2. Structures and activities authorized by this RGP shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.
3. This RGP is not an approval of the design features of any authorized project or an implication that such project is adequate for the intended purpose: a Department of the Army permit merely expresses the consent of the Federal Government to conduct the proposed work insofar as public rights are concerned. This RGP does not grant any property rights or exclusive privileges; does not authorize any injury to the property or rights of others; and does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. This RGP does not relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located.
4. This RGP may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that such action would be in the public interest.
5. Modification, suspension or revocation of the District Engineer's authorization shall not be the basis for any claim for damages against the United States.
6. This RGP does not authorize interference with any existing or proposed Federal project, and does not entitle the permittee to compensation for damage or injury to the structures or activities authorized herein that may result from existing or future operations undertaken by the United States in the public interest.
7. No attempt shall be made by permittees to prevent the full and free public use of any navigable water of the United States.
8. Permittees shall not cause any unreasonable interference with navigation.
9. Permittees shall conduct the activities in a manner that will minimize any adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse

impacts to migratory waterfowl breeding areas, spawning areas, and trees, particularly hard-mast-producing trees such as oaks and hickories. Permittees shall seek to maintain existing buffers around waters of the United States, including primarily streams and wetlands and create and/or expand buffers around waters of the United States when practicable. Compensatory mitigation plans for projects in, or near, streams or other open waters shall normally include provisions for the establishment, maintenance, and legal protection, e.g. deed restrictions, conservation easements, of vegetated buffers to those waters.

10. Permittees shall allow the District Engineer and his authorized representative(s) to make periodic inspections at any time deemed necessary to ensure that the activity is being performed in accordance with the terms and conditions of this RGP.

11. Permittees must evaluate the effect that the proposed work would have on historic and prehistoric properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) prior to the initiation of work. If a known historic property would be affected, the permittee shall notify the USACE and shall not conduct any work in the permit area that would affect the property until the requirements of 33 CFR Part 325, Appendix C, have been satisfied. If a previously unknown historic property is encountered during work authorized by this RGP, the permittee shall immediately notify the USACE and avoid further impact to the site until the USACE has verified that the requirements of 33 CFR Part 325, Appendix C, have been satisfied.

12. Materials to be placed into waters of the United States are restricted to clean native soils and concrete, sand, gravel, rock, other coarse aggregate, and other suitable material. All material used shall be free of toxic pollutants in toxic quantities.

13. Permittees shall coordinate all construction activities in federally maintained channels and/or waterways for required setback distances with the USACE prior to application for a permit.

14. Permittees shall place all heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.

15. Activities that are likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act, or that are likely to destroy or adversely modify the critical habitat of such species are not authorized. Permittees shall notify the District Engineer if any listed species or critical habitat might be affected by, or is in the vicinity of, the project and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

16. Permittees shall not significantly disrupt the movement of those species of aquatic life indigenous to the water body or those species that normally migrate through the project area.

17. Permittees shall not permanently restrict or impede the passage of normal or expected high flows unless the primary purpose of the activity is to temporarily impound water.

18. Permittees shall properly maintain all structures and fills to ensure public safety.

19. Permittees shall insure that projects have no more than minimal adverse impacts on public water supply intakes.
20. Stream realignment is not authorized by this RGP.
21. Permittees shall design facilities to be stable against the forces of flowing water, wave action, and the wake of passing vessels.
22. Permittees shall remove all excess material and temporary fill and structures placed in waters of the United States, including wetlands, to upland areas and stabilize all exposed slopes and stream banks immediately upon completion of construction. Material may be temporarily sidecast into waters of the United States for up to 90 days provided that the material is placed in a manner that will not allow it to be dispersed by currents or other forces. Areas affected by temporary fills and/or structures shall be returned to preconstruction conditions or better, including revegetation with native vegetation. All material removed must be placed at least 50 feet from any water of the United States, including wetlands, and adequately contained to prevent the return to any water of the United States, including wetlands.
23. Permittees are not authorized to discharge dredged or fill material into waters of the United States for purposes of disposal into, or reclamation of, an aquatic area, such as a wetland.
24. Permittees shall not use a jet barge or similar equipment for trench excavation.
25. Channel and boat lane construction and maintenance are not authorized by this RGP.
26. Permittees shall mark structures or fills in navigable waters, when appropriate, so that their presence will be known to boaters.
27. This permit does not authorize work in a park, wildlife management area, refuge, sanctuary, or similar area administered by a federal, state or local agency without that agency's approval.
28. Permittees are responsible for compliance with all terms and conditions of this RGP for all activities within the Department of the Army permit area of a project authorized by this RGP, including those taken on behalf of the permittee by other entities such as contractors and subcontractors. Permittees assume all liabilities associated with fills and impacts that are incurred by individuals and/or organizations working on contracts with the permittee. Before beginning the work authorized herein or directing a contractor to perform such work, permittees shall ensure that all parties read, understand and comply with the terms and conditions of this permit.
29. Permittees shall conduct dredging and excavation activities with landbased equipment rather than from the water body whenever practicable.
30. Permittees shall not construct facilities designed or used for human habitation nor those that include sewage or fuel handling facilities.

31. Permittees must comply with Federal Emergency Management Agency (FEMA), or FEMA-approved local floodplain development requirements in the placement of any permanent above-grade fills in waters of the United States, including wetlands, within the 100-year floodplain. The 100-year floodplain will be identified through FEMA's Flood Insurance Rate Maps or FEMA-approved local floodplain maps. A permanent above-grade fill is a discharge of dredged or fill material into waters of the United States, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by nationwide permits 3, 25, 36, etc., are not included.

32. For all discharges proposed for authorization in Dallas, Denton, and Tarrant Counties that are within the study area of the "Final Regional Environmental Impact Statement (EIS), Trinity River and Tributaries" (May 1986), permittees shall meet the criteria and follow the guidelines specified in Section III of the Record of Decision for the Regional EIS, including the hydraulic impact requirements. A copy of these guidelines is available upon request from the Fort Worth District and at the District website www.swf.usace.army.mil/regulatory/.

33. To satisfy Texas Commission on Environmental Quality (TCEQ) water quality certification requirements for all projects to which Section 401 water quality certification by the TCEQ applies, the permittee must use at least one best management practice (BMP) from each of the first three categories of on-site water quality management and comply with item d. concerning contaminated dredged material below to satisfy TCEQ water quality certification requirements. Descriptions of the BMPs may be obtained from the TCEQ by calling (512) 239-5366, by calling one of the Corps district regulatory offices identified in the "PRECONSTRUCTION NOTIFICATIONS" section of this RGP, or from the USACE, Fort Worth District, web site at <http://www.swf.usace.army.mil/regulatory/>. The TCEQ-required BMPs are as follows:

a. Erosion Control

Disturbed areas must be stabilized to prevent the introduction of sediment to adjacent wetlands or water bodies during wet weather conditions (erosion). *At least one* of the following best management practices (BMPs) must be maintained and remain in place until the area has been stabilized.

Temporary Vegetation

Blankets/Matting

Mulch

Sod

b. Post-Construction TSS Control

After construction has been completed and the site is stabilized, total suspended solids (TSS) loadings shall be controlled by *at least one* of the following BMPs.

Retention/Irrigation

Extended Detention Basin

Vegetative Filter Strips

Constructed Wetlands

Wet Basins

c. Sedimentation Control

The project area must be isolated from adjacent wetlands and water bodies by the use of BMPs to confine sediment. *At least one* of the following BMPs must be maintained and remain in place until project completion.

Sand Bag Berm

Silt Fence

Triangular Filter Dike

Rock Berm

Hay Bale Dike

Dredged material shall be placed in such a manner that prevents sediment runoff into water in the state, including wetlands. Water bodies can be isolated by the use of one or more of the required BMPs identified for sedimentation control. These BMPs must be maintained and remain in place until the dredged material is stabilized.

Hydraulically dredged material shall be disposed of in contained disposal areas. Effluent from contained disposal areas shall not exceed a TSS concentration of 300 mg/l.

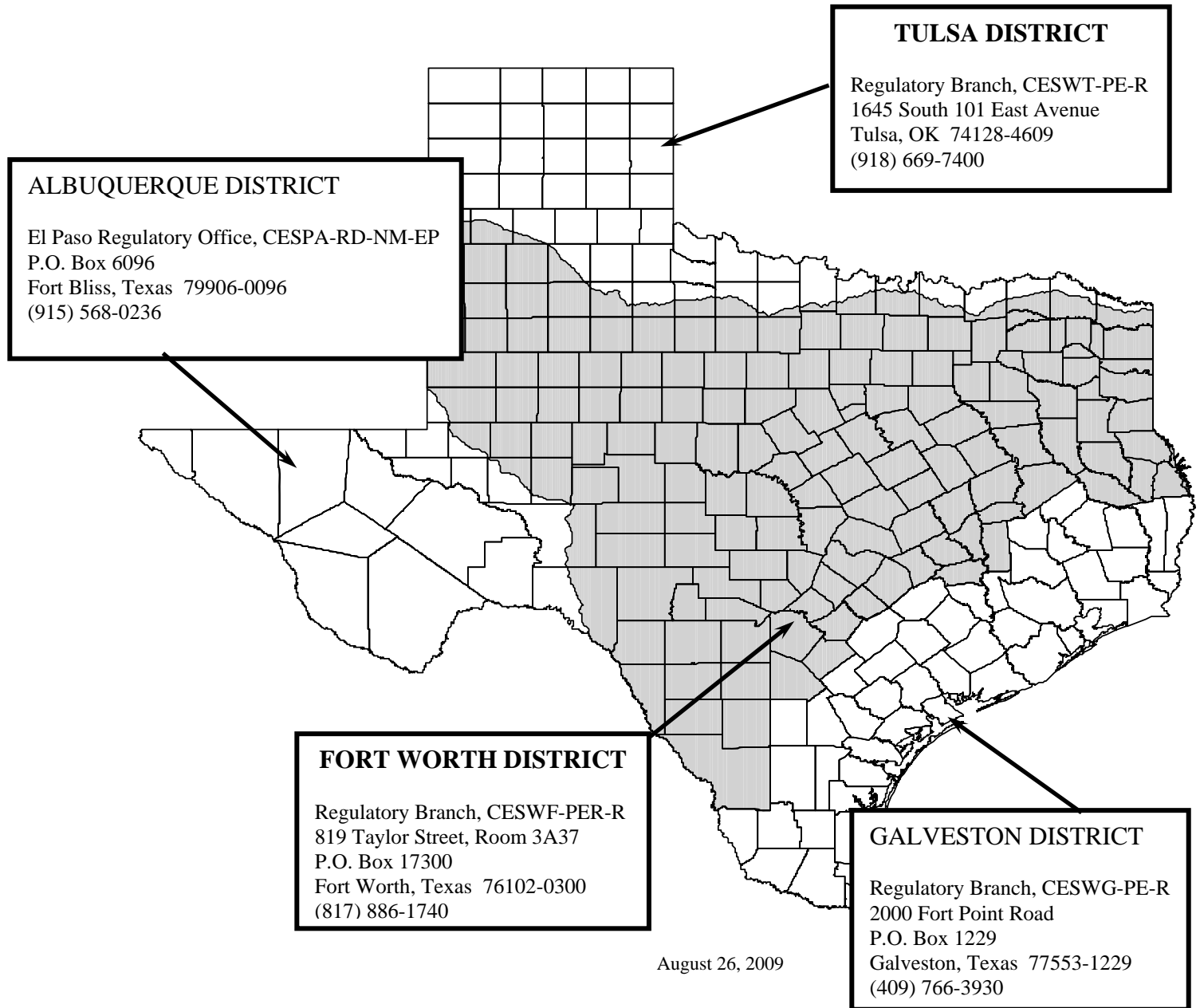
d. Contaminated Dredged Material

If contaminated dredge material that was not anticipated or provided for in the permit application is encountered during dredging, operations shall cease immediately. Pursuant to 26.039 (b) of the Texas Water Code, the individual operating or responsible for the dredging operations shall notify the commission's emergency response team at (512) 463-7727 as soon as possible, and not

later than 24 hours after the discovery of the material. The applicant shall also notify the Corps that activities have been temporarily halted. Contaminated dredge material shall be remediated or disposed of in accordance with TCEQ rules. Dredging activities shall not be resumed until authorized in writing by the Commission.

Contaminated dredge material is defined as dredge material which has been chemically, physically, or biologically altered by man-made or man-induced contaminants which include, but are not limited to solid waste, hazardous waste and hazardous waste constituent as those terms are defined by 30 TAC Chapter 335, Pollutants as defined by Texas Water Code 26.001 and Hazardous Substances as defined in the Texas Health and Safety Code, 361.003.

Appendix B
U.S. Army Corps of Engineers Districts within the State of Texas



APPENDIX C

NAVIGABLE WATERS OF THE UNITED STATES

For purposes of Section 10 of the Rivers and Harbors Act of 1899, the following sections of rivers, including their lakes and other impoundments, are considered to be navigable waters of the United States that fall within the jurisdiction of the Fort Worth, Albuquerque, and Tulsa districts of the U.S. Army Corps of Engineers in the states of Texas and Louisiana.

ANGELINA RIVER: From the Sam Rayburn Dam in Jasper County upstream to U. S. Highway 59 in Nacogdoches and Angelina counties and all U. S. Army Corps of Engineers lands associated with B. A. Steinhagen Lake in Tyler and Jasper counties, Texas.

BIG CYPRESS BAYOU: From the Texas-Louisiana state line in Marion County, Texas, upstream to Ellison Creek Reservoir in Morris County, Texas.

BRAZOS RIVER: From the point of intersection of Grimes, Washington, and Waller counties upstream to Whitney Dam in Hill and Bosque counties, Texas.

COLORADO RIVER: From the Bastrop-Fayette county line upstream to Longhorn Dam in Travis County, Texas.

NECHES RIVER: U. S. Army Corps of Engineers lands associated with B. A. Steinhagen Lake in Jasper and Tyler counties, Texas.

RED RIVER: From Denison Dam on Lake Texoma upstream to Warrens Bend which is 7.25 miles northeast of Marysville, Texas, and from the U. S. Highway 71 bridge north of Texarkana, Texas, to the Oklahoma-Arkansas Border.

RIO GRANDE: From the Zapata-Webb county line upstream to the point of intersection of the Texas-New Mexico state line and Mexico.

SABINE RIVER: From the point of intersection of the Sabine-Vernon parish line in Louisiana with Newton County, Texas upstream to the Sabine River-Big Sandy Creek confluence in Upshur County, Texas.

SULPHUR RIVER: From the Texas-Arkansas state line upstream to Wright Patman Dam in Cass and Bowie counties, Texas.

TRINITY RIVER: From the point of intersection of Houston, Madison, and Walker counties upstream to Riverside Drive in Fort Worth, Tarrant County, Texas.

APPENDIX D

MITIGATING ADVERSE IMPACTS TO WATERS OF THE UNITED STATES

U.S. Army Corps of Engineers (USACE) evaluation of a project proposal submitted for authorization under this permit includes a determination of whether the applicant has taken sufficient measures to **mitigate** the project's likely adverse impacts to the aquatic ecosystem. Applicants should employ the following three-step sequence in mitigating likely adverse project impacts: 1) take appropriate and practicable measures to **avoid** potential adverse impacts to the aquatic ecosystem; 2) employ appropriate and practicable measures to **minimize** unavoidable adverse impacts to the aquatic ecosystem; and 3) undertake appropriate and practicable measures to **compensate** for adverse impacts to the aquatic ecosystem that cannot be reasonably avoided or minimized. **Compensatory mitigation**, then, is the restoration, enhancement, creation, or preservation of wetlands and other waters of the United States to compensate for adverse impacts to the aquatic ecosystem that cannot reasonably be avoided or minimized.

Compensatory mitigation should replace those aquatic system functions that would be lost or impaired because of the proposed activity. The appropriate amount and type of compensatory mitigation depends on the nature and extent of the project's likely adverse impact on those functions performed by the aquatic area(s) that would be impacted. These functions include, but are not limited to, flood storage and conveyance; providing habitat for fish, aquatic organisms, and other wildlife, including endangered species; sediment and erosion control; groundwater recharge; nutrient removal; water supply; production of food, fiber, and timber; and recreation. Compensatory mitigation should also be commensurate with the scope and degree of the anticipated impacts and be practicable in terms of cost, existing technology, and logistics, in light of the overall project purpose.

According to the Compensatory Mitigation for Losses of Aquatic Resources-Final Rule published in the Federal Register Vol. 73, No. 70, April 10, 2008, pp 19594-19705, mitigation bank credits are the preferable method of compensatory mitigation. However, with adequate justification, in-kind compensatory mitigation or out-of-kind mitigation would be considered if it occurs as close to the location of the adverse impacts as practicable, generally in the same watershed. In some cases, it is appropriate to provide partial compensation at one location, such as the impact site, with the remainder occurring at an off-site location.

Normally, restoration or enhancement of wetland functions is preferable to wetland creation because the probability of successfully restoring or enhancing wetlands is greater than the probability of successfully creating new wetlands, and restoration and enhancement activities are less likely to impact upland and open water habitats. The preservation of existing wetlands is appropriate as compensatory mitigation only in exceptional situations.

On-site and off-site compensatory mitigation plans should include the factors as listed in the Compensatory Mitigation for Loss of Aquatic Resources-Final Rule referenced above. This would include a thorough description of the proposed mitigation area; a description of all proposed work and structures such as grading, fills, excavation, plantings, and water level control structures; plan and cross-section drawings of pertinent work and structures; a statement explaining how adverse impacts to local hydrology will be minimized; and a proposal for monitoring the success of the proposed mitigation plan. Generally, monitoring should continue for at least five years after mitigation activities are completed, providing planting survival requirements have been achieved. To achieve long-term success of a mitigation plan, an appropriate real estate arrangement, such as a notice of restriction, may be required.

APPENDIX E

Attachment 1 – Dredge and Fill Certification

USACE Regional General Permit for Boat Ramps and Minor Facilities

Page 1 of 3
July 22, 2009

WORK DESCRIPTION: As described in the public notice dated May 6, 2009, and the July 15, 2009, Decision Document and RGP.

SPECIAL CONDITIONS: None

GENERAL: This certification, issued pursuant to the requirements of Title 30, Texas Administrative Code, Chapter 279, is restricted to the work described in the July 15, 2009, Decision Document and RGP and shall be concurrent with the Corps of Engineers (COE) permit. This certification may be extended to any minor revision of the COE permit when such change(s) would not result in an impact on water quality. The Texas Commission on Environmental Quality (TCEQ) reserves the right to require full joint public notice on a request for minor revision. The applicant is hereby placed on notice that any activity conducted pursuant to the COE permit which results in a violation of the state's surface water quality standards may result in an enforcement proceeding being initiated by the TCEQ or a successor agency.

STANDARD PROVISIONS: These following provisions attach to any permit issued by the COE and shall be followed by the permittee or any employee, agent, contractor, or subcontractor of the permittee during any phase of work authorized by a COE permit.

1. The water quality of wetlands shall be maintained in accordance with all applicable provisions of the Texas Surface Water Quality Standards including the General, Narrative, and Numerical Criteria.
2. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, aquatic life, or terrestrial life.
3. Permittee shall employ measures to control spills of fuels, lubricants, or any other materials to prevent them from entering a watercourse. All spills shall be promptly reported to the TCEQ by calling the State of Texas Environmental Hotline at 1-800-832-8224.
4. Sanitary wastes shall be retained for disposal in some legal manner. Marinas and similar operations which harbor boats equipped with marine sanitation devices shall provide state/federal permitted treatment facilities or pump out facilities for ultimate transfer to a permitted treatment facility. Additionally, marinas shall display signs in appropriate locations advising boat owners that the discharge of sewage from a marine sanitation device to waters in the state is a violation of state and federal law.
5. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.
6. A discharge shall not cause substantial and persistent changes from ambient conditions of turbidity or color. The use of silt screens or other appropriate methods is encouraged to confine suspended particulates.
7. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is available. If work within a wetland is unavoidable, gouging or rutting of the substrate is prohibited. Heavy equipment shall be placed on mats to protect the substrate from gouging and rutting if necessary.

Attachment 1 – Dredge and Fill Certification

USACE Regional General Permit for Boat Ramps and Minor Facilities

Page 2 of 3

July 22, 2009

8. **Dredged Material Placement:** Dredged sediments shall be placed in such a manner as to prevent any sediment runoff onto any adjacent property not owned by the applicant. Liquid runoff from the disposal area shall be retained on-site or shall be filtered and returned to the watercourse from which the dredged materials were removed. Except for material placement authorized by this permit, sediments from the project shall be placed in such a manner as to prevent any sediment runoff into waters in the state, including wetlands.
9. If contaminated spoil that was not anticipated or provided for in the permit application is encountered during dredging, dredging operations shall be immediately terminated and the TCEQ shall be contacted by calling the State of Texas Environmental Hotline at 1-800-832-8224. Dredging activities shall not be resumed until authorized by the Commission.
10. Contaminated water, soil, or any other material shall not be allowed to enter a watercourse. Noncontaminated stormwater from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
11. Storm water runoff from construction activities that result in a disturbance of one or more acres, or are a part of a common plan of development that will result in the disturbance of one or more acres, must be controlled and authorized under Texas Pollutant Discharge Elimination System (TPDES) general permit TXR150000. A copy of the general permit, application (notice of intent), and additional information is available at: http://www.tceq.state.tx.us/nav/permits/wq_construction.html or by contacting the TCEQ Storm Water & Pretreatment Team at (512) 239-4671.
12. Upon completion of earthwork operations, all temporary fills shall be removed from the watercourse/wetland, and areas disturbed during construction shall be seeded, riprapped, or given some other type of protection to minimize subsequent soil erosion. Any fill material shall be clean and of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters.
13. Disturbance to vegetation will be limited to only what is absolutely necessary. After construction, all disturbed areas will be revegetated to approximate the pre-disturbance native plant assemblage.
14. Where the control of weeds, insects, and other undesirable species is deemed necessary by the permittee, control methods which are nontoxic to aquatic life or human health shall be employed when the activity is located in or in close proximity to water, including wetlands.
15. Concentrations of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the water, or otherwise interfere with reasonable use of the water in the state.
16. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms, putrescible sludge deposits, or sediment layers which adversely affect benthic biota or any lawful uses.
17. Surface waters shall be essentially free of settleable solids conducive to changes in flow characteristics of stream channels or the untimely filling of reservoirs, lakes, and bays.

Attachment 1 – Dredge and Fill Certification

USACE Regional General Permit for Boat Ramps and Minor Facilities

Page 3 of 3

July 22, 2009

18. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition and foaming or frothing of a persistent nature is avoided. Surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.
19. This certification shall not be deemed as fulfilling the applicant's/permittee's responsibility to obtain additional authorization/approval from other local, state, or federal regulatory agencies having special/specific authority to preserve and/or protect resources within the area where the work will occur.



RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

August 4, 2009

U S ARMY CORPS OF ENGINEERS
REGULATORY BRANCH (CESWF-PER-R)
P O BOX 17300
FORT WORTH TX 76102-0300
ATTN DAVID E. MADDEN

Re: Proposed Regional General Permit, CESWF-02-RGP-8 and SPA-2009-00240-ABQ
Boat Ramps and Minor Facilities

Dear Mr. Madden:

The Railroad Commission of Texas (RRC) has examined the above referenced proposed permit in response to the public notice issued May 6, 2009. The RRC is the certifying agency for federal permits covering activities associated with the exploration, development, and production, including pipeline transportation, of oil, gas, or geothermal resources that may result in a discharge to waters of the U.S. This office did not directly receive any comments on the proposed permit, but understand that there were minor comments from the Texas Commission on Environmental Quality (TCEQ) and from the Texas Parks and Wildlife Department, which you have addressed. I examined the version of the proposed permit and identified no conflicts between the proposed permit and applicable state water quality laws with two small recommendations. First, under State statute, a point source discharge of pollutants from an outfall structure associated with oil and gas exploration, development, and production must be authorized, conditionally authorized, or specifically exempted from regulation by the Railroad Commission of Texas. In Texas, the Environmental Protection Agency (EPA) maintains NPDES permitting authority over oil and gas discharges regulated by the Railroad Commission (See 63 FR 51164). Texas received NPDES program authorization only for those discharges covered by the authority of the TCEQ. Under the federal law, these same discharges must be authorized, conditionally authorized, or specifically exempted by the EPA. Second, under "Authorization from other Agencies," you include an advisory that activities such as clearing, grading, and excavation that would disturb five or more acres of land may require a NPDES storm water management permit from EPA or TCEQ. Phase II of the storm water construction program regulations would decrease that threshold to one acre, effective March 03, 2003.

My review indicates that, based on the information contained in the proposed permit and public notice, with the addition of language to the permit advising that a RRC permit may be required for any point source discharge of pollutants, there is a reasonable assurance that an activity authorized by the regional general permit will be conducted in a manner which will not violate any applicable water quality requirements. Therefore, certification of the referenced proposed permit for compliance with applicable water quality laws is hereby granted.

Please call me at (512)463-7308 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Leslie Savage", written over a circular stamp.

Leslie Savage, Water Quality Certification Coordinator
Oil & Gas Division

BOBBY JINDAL
GOVERNOR



HAROLD LEGGETT, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL SERVICES

AUG 19 2009

U.S. Army Corps of Engineers- Fort Worth District
Regulatory Branch (CESWF-PER-R)
819 Taylor Street, Room 3A37
Fort Worth, TX 76102-0300

Attention: David Madden

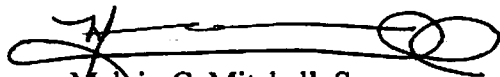
RE: Water Quality Certification (WQC 020530-04/AI 101926/CER 20090001)
Renewal of Regional General Permit (RGP) #8

Dear Mr. Madden:

The Department has reviewed your application to extend the time limit of activities covered under Regional General Permit #8 for an additional five years.

The requirements for Water Quality Certification have been met in accordance with LAC 33:IX.1507.A-E. Based on the information provided in your application, we have determined that the placement of the fill material will not violate the water quality standards of Louisiana provided for under LAC 33:IX.Chapter 11. Therefore, the Department has issued a Water Quality Certification.

Sincerely,



Melvin C. Mitchell, Sr.
Administrator
Water Permits Division
MCM/jjp